



Agenda Report

20-1062

Agenda Date: 10/27/2020

REPORT TO COUNCIL

SUBJECT

Presentation of Santa Clara Valley Transportation Authority (VTA) Update on the BART Silicon Valley Phase II Extension Project and Consideration of Delegation of Authority to the City Manager to Negotiate and Execute a Master Agreement between the City and VTA

COUNCIL PILLAR

Promote and Enhance Economic, Housing and Transportation Development

BACKGROUND

The Santa Clara Valley Transportation Authority (VTA) BART Silicon Valley Program is a 16-mile, six-station extension of the BART system from the Warm Springs Station in Fremont extending south into Santa Clara County, with six stations in Milpitas, San Jose, and Santa Clara. The Program has been split into two phases. The first phase is the 10-mile, two-station Berryessa Extension, with stations in Milpitas and Berryessa/North San Jose. Phase I opened for revenue service in June 2020.

The second phase consists of an approximately six-mile long extension of the BART system from the Berryessa/North San Jose BART Station in the City of San Jose to the proposed Santa Clara BART Station located in the City of Santa Clara. Phase II will include an approximately five-mile long tunnel or subway through downtown San Jose; four stations including 28th Street/Little Portugal, Downtown San Jose, Diridon, and Santa Clara; two mid-tunnel ventilation/emergency egress facilities located at Santa Clara Street/13th Street and Stockton Avenue/Schiele Avenue; and the Newhall Maintenance Facility located in San Jose and Santa Clara. Additional information is included as Attachment 1, VTA's BART Phase II Information Pamphlet. Phase II will be delivered through design build contracts and is currently in the design, engineering, and contract procurement development stage. Early construction activities are scheduled to begin in 2022 with substantial construction completion in 2028, followed by system testing, integration, and safety certification. Similar to VTA's BART Phase I Program, VTA is the funding agency and manages the overall delivery of the BART Extension program while BART is the operator and maintainer of the system.

DISCUSSION

The purpose of this item is for 1) VTA to provide Council with an update on the BART Silicon Valley Phase II Extension Project (Project) and 2) provide an overview of the Master Agreement (Agreement) that will need to be put in place between the VTA and City to guide the design and construction of the Project. The VTA had been in discussions with the City regarding the need for an Agreement and indicated it would need to be finalized in early 2021. However, just over a week ago the VTA notified the City that based on an application for Federal Transit Administration (FTA) funding, the **VTA is now required to have 10 critical third-party agreements in place, including with Santa Clara, by the end of October 2020.** The FTA's Expedited Project Delivery (EPD) Pilot Program is a federal funding program that enables transit agencies to fast track the federal funding

process for major projects like the BART extension. FTA recently determined that the Agreement is a critical third-party agreement and must be submitted with the VTA's EPD application.

The Agreement covers a broad range of topics and the overall purpose is to define and outline the interaction, consultation and cooperation between the City and VTA for preliminary engineering, final design, and construction of the Project. This includes items such as: City reviews, inspections, permitting, reimbursement, warranties and indemnification. The Agreement defines each agency's respective rights and obligations and ensures cooperation between the VTA and City in connection with the Project. The Agreement also provides the framework for ongoing interaction between the VTA and City to be supported by subsequent amendments or agreements for specific issues related to the Project such as the implementation of cost sharing or other cooperative arrangements.

Over the course of the past week, City staff has been working diligently with the VTA to try and help them achieve their goal of having an executed Agreement submitted with their funding application. This is a very difficult task given the extremely short timeframe, complexity of the Agreement and the level of detail required. Because of this, the City and VTA looked at options to simplify the Agreement as much as possible, defer more complex items, but still be able to comply with the FTA requirements. This strategy then allows more time for reviewing the other more complex items, refining them, reaching agreement on terms and executing amendments to the Agreement or creating additional separate agreements. The items that would be deferred include things such as:

- document review milestones
- time periods for City plan reviews and inspections
- requirements for any Architectural Historic Properties
- incorporation of updated Construction Standards
- definition of Project betterments
- construction and post construction stormwater requirements
- payment reimbursement requirements.

City and VTA staff have reviewed and coordinated on the Agreement terms multiple times over the past week. The latest draft of the Agreement is included as Attachment 2; however, at the time of issuing this staff report, City and VTA staff are still very much working to complete this Agreement by deadline and the draft released is not the final proposed copy. For that reason, staff offers a second policy alternative below to afford the greatest level of Council policy decision making and transparency.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15378(b)(5) in that it is an administrative activity that will not result in direct or indirect physical changes in the environment.

FISCAL IMPACT

There is no impact to the City other than administrative staff time.

COORDINATION

This report has been coordinated with the Community Development Department and City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>>.

ALTERNATIVES

1. Authorize the City Manager to negotiate and execute a Master Agreement with the Santa Clara Valley Transportation Authority Relating to VTA's BART Silicon Valley Phase II Extension Project and make minor changes, including time extensions, as necessary;
2. Continue the Council meeting, and this agenda item, to the October 29, 2020 City Council meeting and direct the City Manager to issue a draft Master Agreement for review and Council consideration;
3. Do not authorize the City Manager to execute a Master Agreement with the Santa Clara Valley Transportation Authority Relating to VTA's BART Silicon Valley Phase II Extension Project and provide further direction to staff.

RECOMMENDATION

Alternative 1

Authorize the City Manager to negotiate and execute a Master Agreement with the Santa Clara Valley Transportation Authority Relating to VTA's BART Silicon Valley Phase II Extension Project and make minor changes, including time extensions, as necessary.

Reviewed by: Craig Mobeck, Director of Public Works

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. VTA's BART Phase II Information Pamphlet
2. Draft Master Agreement